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In re Application of:  
Graeme McKinnon et al.

Serial No.: 09/751,312

Filed: December 29, 2000

For: MODULAR TIMEMASKING  
SEQUENCE PROGRAMMING FOR  
IMAGING SYSTEM

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Group Art Unit: 2862

Examiner: Shrivastav, Brij B.

Atty. Docket: GEMS:0011--1/YOD  
15-NM-5910

Assistant Commissioner  
for Patents  
Washington, D.C. 20231

CERTIFICATE OF MAILING 37 C.F.R. 1.8	
I hereby certify that this correspondence is being deposited with the U.S. Postal Service as First Class Mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231, on the date below:	
02/19/02 Date	 Lynda Howell

RESPONSE TO RESTRICTION/ELECTION REQUIREMENT

This is in response to the Office Action mailed on December 19, 2001.

Applicants hereby request a one (1) month extension in the statutory period for response to the Office Action from January 19, 2002 to February 19, 2002 in accordance with 37 C.F.R. § 1.136. The Commissioner is authorized to charge the requisite fee of \$110.00, and any additional fees which may be required, to Account No. 07-0845, Order No. 15-NM-5910/YOD (GEMS:0011--1).

As conveyed to the Examiner in a brief informal telephonic interview on January 24, Applicants do not believe that the Restriction Requirement is properly formulated or founded in present code or MPEP sections. In particular, the Restriction Requirement appears to indicate that the application contains patently distinct species of a claimed invention. The bases for restrictions under the guise of distinct species present in an application are set forth in MPEP §806.05(c) through 806.05(i). The undersigned has

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carefully reviewed these sections of MPEP and does not find any basis whatsoever for the identification of distinct species in the application. Nor has the Examiner advanced any credible arguments in support of the six-way election being required. Indeed, despite the repeated requests by the undersigned for a telephonic interview with the Examiner's supervisor to discuss the present Restriction Requirement, the Examiner informed the undersigned that the present Response should simply be filed without the benefit of any discussion with the Examiner's supervisor on the merits of the Requirement.

The Examiner is reminded that under MPEP §803, "if no serious burden" exists to the search or examination of claims contained in an application, it is the Examiner's duty to carry on with such examination. Accordingly, Applicants respectfully request reconsideration of the Restriction Requirement. Moreover, Applicants respectfully request that the Examiner clearly articulate which of the MPEP sections form the basis for the Restriction Requirement. If multiple sections form the basis for the requirement, Applicants respectfully request that these specific sections be indicated and applied to the specific claim groups identified by the Examiner. For example, if it is the Examiner's position that certain of the claims recite combinations and sub-combinations in accordance with MPEP §806.05(c), Applicants request that this be indicated clearly in the Restriction Requirement.

Every effort has been made in the present paper to provide feedback which is completely responsive to the Examiner. If, upon review by the Examiner and the Examiner's supervisor, the present Response is deemed to be non-responsive, Applicants request that the Office treat the present paper as a *bona fide* attempt to respond to the Office Action and provide an extended period for an appropriate response, given the further explanation of the Examiner as requested herein.

Should the Examiner wish to discuss the status of the application or the present Response, he is kindly requested to contact the undersigned at his earliest convenience.

Date: 2/19/2002

Respectfully submitted,

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